

THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.8346 OF 2006

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DATED: 09-02-2007

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Between:

J.300 Modepalli Primary Agricultural Co-operative Society Limited, Modepalli Prakasam District represented by its Chair Person, Kote Raja Rao (Formerly Kotikalapudi Primary Agricultural Co-operative Society Limited)

.. Petitioner

and

Appellate Authority under A.P. Shops & Establishments Act and Assistant Commissioner of Labour, Ongole, Prakasam District and others

.. Respondents

THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.8346 OF 2006

ORDER:

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This writ petition is filed seeking a certiorari to call for the records relating to the order of the 1st respondent dated 02.12.2005 made in S.A.No.2 of 2004 confirming the order of the 2nd respondent in S.E.Case No.1 of 2003 dated 26.11.2003 and quash the same.

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There is no necessity of going into all the details.

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It appears, the 3rd respondent, Secretary of the petitioner-Society, was placed under suspension pending enquiry into certain allegations made against him. However, since subsistence allowance was not paid to him, he approached the 2nd respondent-Authority under Section 50 of A.P. Shops and Establishments Act, 1988 (for short 'the Authority), in S.E.Case No.1 of 2003. The Authority, after conducting a detailed enquiry into the matter, passed orders on 26.11.2003 directing the petitioner herein to pay subsistence allowance to the 3rd respondent as per law. Aggrieved by the same, the petitioner-Society filed an appeal in S.A.No.2 of 2004 before the 1st respondent-Appellate Authority under Section 50 of A.P. Shops and Establishments Act, 1988 (for short 'the Appellate Authority). The 1st respondent-Appellate Authority, after detailed consideration of the order passed by the 2nd respondent, opined that no grounds are made out to interfere with the said order and, therefore, dismissed the appeal

confirming the order of the 2nd respondent. Aggrieved by the same, the petitioner-Society filed this writ petition.

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I am of the opinion that if an employee is placed under suspension, he is entitled for subsistence allowance under Section 47 (6) of the A.P. Shops and Establishments Act, 1988. Therefore, the denial of the subsistence allowance to the 3rd respondent is not only arbitrary and illegal, but is also atrocious. As such, the order passed by the 2nd respondent-Authority, as confirmed by the 1st respondent-Appellate Authority, cannot be said to be either arbitrary or illegal. No case is made out to interfere with the orders passed by the authorities below.

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The writ petition is devoid of merits and is liable to be dismissed. Accordingly, the writ petition is dismissed. No costs.

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C.V. RAMULU, J

9th February, 2007.
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